

<b>Examiner-Initiated Interview Summary</b>	Application No.	Applicant(s)	
	09/621,781	FISHER ET AL.	
	Examiner	Art Unit	
	David A. Lambertson	1636	

  

**All Participants:**

(1) David A. Lambertson, Ph.D.

(2) Lisa B. Kole, M.D., Ph.D.

**Date of Interview:** 5 November 2003

**Type of Interview:**

☒ Telephonic

☐ Video Conference

☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☒ No

If Yes, provide a brief description: \_\_\_\_\_

**Part I.**

Rejection(s) discussed:

  

Claims discussed:

1,7,38-40

Prior art documents discussed:

  

**Part II.**

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:

*See Continuation Sheet*

**Part III.**

☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

**Status of Application:** \_\_\_\_\_

(3) \_\_\_\_\_

(4) \_\_\_\_\_

**Time:** 3:30pm

  

(Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: Applicant's attorney/agent was contacted concerning the approval of an Examiner's Amendment. The following issues were raised as requiring amendment prior to the allowance of the claims: (1) the recitation of functional language (i.e., that the nucleotide sequence had promoter activity) in claim 1; (2) the amendment of claim 11 to properly indicate multiple dependency in the alternative; (3) the cancellation of the language "PEG-3 promoter" in claims 38-40. As it regards part (3), it was indicated that the indication of the claimed nucleotide sequence as a "PEG-3 promoter" and having "PEG-3 promoter" activity was indefinite because the claimed nucleic acid had permutations that were not actually PEG-3 promoters (for example, the specific order of the functional sequences could be substantially different from the order in which they originally appear in a PEG-3 promoter). It was suggested that the cancellation of the term "PEG-3" would obviate a 35 USC § 112, second paragraph rejection. The amendments were approved by Applicant's agent/attorney, and are reflected in the attached Examiner's Amendment..